

103^D CONGRESS
1ST SESSION

H. R. 1231

To amend the Act of March 3, 1931 (known as the Davis-Bacon Act),
to revise the standard for coverage under that Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1993

Mr. MURPHY (for himself and Mr. FORD of Michigan) introduced the
following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Act of March 3, 1931 (known as the Davis-
Bacon Act), to revise the standard for coverage under
that Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DAVIS-BACON ACT REVISION.**

4 The Act of March 3, 1931 (known as the Davis-
5 Bacon Act) (40 U.S.C. 276a et seq.) is amended to read
6 as follows:

7 **“SECTION 1. SHORT TITLE.**

8 “This Act may be cited as the ‘Davis-Bacon Act’.

9 **“SEC. 2. CONTRACT REQUIREMENTS.**

10 “(a) REQUIRED PROVISIONS.—

1 “(1) IN GENERAL.—A contract described in
2 subsection (b) shall—

3 “(A) contain a provision stating that the
4 various classes of laborers and mechanics under
5 the contract shall be paid minimum wages
6 based upon wages determined by the Secretary
7 under subsection (b) to be prevailing for the
8 corresponding classes of laborers and mechanics
9 employed on projects of a character similar to
10 the contract work in the city, town, or other
11 civil subdivision of the State in which the work
12 is to be performed or in the District of Colum-
13 bia if the work is to be performed there; and

14 “(B) contain a stipulation that the con-
15 tractor or subcontractor under the contract
16 shall pay all laborers and mechanics under the
17 contract—

18 “(i) unconditionally;

19 “(ii) not less often than once a week;

20 and

21 “(iii) without subsequent deduction or
22 rebate on any account;

23 the full amounts accrued at time of payment ir-
24 respective of any contractual relationship which
25 may be alleged to exist between the contractor

1 or subcontractor and such laborers or mechan-
2 ics.

3 “(2) LABORER OR MECHANIC.—An individual
4 shall for purposes of this subsection be considered a
5 laborer or mechanic under a contract subject to this
6 subsection if the person who entered into the con-
7 tract paid, directly or through a subcontract, com-
8 pensation to the individual for services performed as
9 a laborer or mechanic to carry out the contract.

10 “(b) CONTRACTS COVERED.—

11 “(1) IN GENERAL.—Unless exempted or other-
12 wise limited by Federal law, the requirements of
13 subsection (a) apply to—

14 “(A) any contract for the construction,
15 prosecution, completion, alteration, repair, ren-
16 ovation, demolition or reconstruction of build-
17 ings or works—

18 “(i) to which the United States or the
19 District of Columbia is a party,

20 “(ii) which is financed in whole or in
21 part by loans, grants, revolving funds or
22 loan guarantees from the United States, or

23 “(iii) which is to be performed on land
24 owned by the United States, and

25 “(B) which is in excess of—

1 “(i) \$100,000 for new construction
2 (including painting and decorating), or

3 “(ii) \$15,000 for alteration, repair,
4 renovation, rehabilitation, demolition or re-
5 construction (including painting and deco-
6 rating),

7 of buildings or works.

8 “(2) PREEMPTION.—Neither the requirements
9 of subsection (a) or the provisions of any other Fed-
10 eral law or regulation shall preempt the application
11 of requirements for the payment of wages or fringe
12 benefits, or both, adopted by State, local, and tribal
13 governments otherwise applicable to contracts cov-
14 ered under paragraph (1)(A)(ii) or (1)(A)(iii), unless
15 compliance with such requirements would make it
16 impossible to comply with the requirements of sub-
17 section (a).

18 “(3) MULTIPLE CONTRACTS.—

19 “(A) IN GENERAL.—Any 2 or more con-
20 tracts for any construction project (including
21 any alteration, repair, renovation, rehabilitation,
22 reconstruction, demolition, painting or decorat-
23 ing project) that—

1 “(i) individually do not exceed the ap-
2 plicable amount prescribed by paragraph
3 (1)(B);

4 “(ii) in the aggregate do exceed such
5 amount; and

6 “(iii) all relate to the same work or
7 related work at the same project;

8 shall be treated as a single contract for pur-
9 poses of subsection (a).

10 “(B) ENFORCEMENT.—For the purpose of
11 enforcing the requirements of subsection (a) for
12 contracts which under subparagraph (A) are to
13 be treated as a single contract, any interested
14 person may bring an action against the Sec-
15 retary of the department, the head of the agen-
16 cy, or contracting authority which entered into
17 such contracts. Such an action may be brought
18 in any United States district court for the dis-
19 trict in which the violation of subsection (a) is
20 alleged to have been committed or in the United
21 States District Court for the District of Colum-
22 bia. Such an action shall be commenced not
23 later than 90 days after the day on which the
24 last labor was performed under the contract
25 with respect to which the action is brought.

1 “(C) RELIEF.—If in an action brought
2 under subparagraph (B) the court finds that
3 there has been a violation of subsection (a), the
4 court may order such relief as may be appro-
5 priate, including—

6 “(i) compliance with subsection (a) in
7 the payment of wages under the contracts
8 subject to subsection (a); and

9 “(ii) the payment by the Secretary of
10 the department, the head of the agency, or
11 contracting authority which entered into
12 such contracts of prevailing wage rates in
13 accordance with that subsection from the
14 date construction began under the con-
15 tracts involved in such action until the
16 date of the judgment of the court, together
17 with interest, at a rate determined by the
18 court, based on the difference between the
19 wages paid under such contracts and the
20 wages required to be paid under such con-
21 tracts by subsection (a).

22 “(D) ATTORNEY’S FEES.—If an interested
23 person prevails in an action brought under sub-
24 paragraph (B), the court in such action shall
25 assess the defendants in the action a reasonable

1 attorney's fee and other litigation costs reason-
2 ably incurred by the interested person.

3 “(4) LEASES.—If the United States or the Dis-
4 trict of Columbia has entered into a contract to lease
5 a building or work or portion thereof and if perform-
6 ance of a contract for the construction, alteration,
7 repair, renovation, rehabilitation, demolition or re-
8 construction of the building or work or portion
9 thereof subject to the lease is required for fulfillment
10 of the contract to lease, the contract for the con-
11 struction, alteration, repair, renovation, rehabilita-
12 tion, or reconstruction of the facility shall be subject
13 to subsection (a) if the contract meets the require-
14 ments of paragraph (1)(B).

15 “(c) APPRENTICES, TRAINEES, AND HELPERS.—

16 “(1) APPRENTICES.—An apprentice who is em-
17 ployed under a contract subject to subsection (a)
18 may be paid less than the rate required by such sub-
19 section if the apprentice is—

20 “(A) employed pursuant to and individ-
21 ually registered in a bona fide apprenticeship
22 program registered with the Bureau of Appren-
23 ticeship and Training of the Department of
24 Labor or with a State Apprenticeship Agency
25 recognized by the Bureau; or

1 “(B) employed in the apprentice’s first 90
2 days of probationary employment as an appren-
3 tice in such an apprenticeship program and is
4 not individually registered in the program but
5 has been certified by the Bureau of Apprentice-
6 ship and Training or a State Apprenticeship
7 Agency (where appropriate) to be eligible for
8 probationary employment as an apprentice.

9 “(2) TRAINEES.—A trainee who is employed
10 under a contract subject to subsection (a) may be
11 paid less than the rate required by such subsection
12 if the trainee is employed pursuant to and individ-
13 ually registered in a program which has received
14 prior approval which is evidenced by formal certifi-
15 cation by the Bureau of Apprenticeship and Train-
16 ing of the Department of Labor.

17 “(3) WAGE RATES.—Notwithstanding any other
18 provision of law, no apprentice or trainee will be per-
19 mitted to work under a contract subject to sub-
20 section (a) at less than the prevailing wage rate un-
21 less such apprentice or trainee is registered in a pro-
22 gram described in paragraph (1) or (2).

23 “(4) HELPERS.—A helper who is employed
24 under a contract subject to subsection (a) may be

1 paid less than the rate required by such subsection
2 if—

3 “(A) the helper is employed in a classifica-
4 tion of helpers the use of which prevails in the
5 area in which the helper is employed;

6 “(B) the scope of the duties of the helper
7 is defined and is separate and distinct from the
8 duties of either a laborer or a mechanic; and

9 “(C) the helper is not used as an informal
10 apprentice or trainee.

11 “(d) POSTING.—A contractor or subcontractor under
12 a contract described in subsection (b) shall post the scale
13 of wages required to be paid under such contract in a
14 prominent and easily accessible place at the site of the
15 contract work.

16 **“SEC. 3. WAGES.**

17 “(a) DEFINITION.—As used in this Act, the terms
18 ‘wages’, ‘scale of wages’, ‘wage rates’, and ‘minimum
19 wages’ include—

20 “(1) the basic hourly rate of pay, and

21 “(2) the amount of—

22 “(A) the rate of contribution irrevocably
23 made by a contractor or subcontractor to a
24 trustee or to a third person pursuant to a fund,
25 plan, or program; and

1 “(B) the rate of costs to the contractor or
2 subcontractor which may be reasonably antici-
3 pated in providing benefits to laborers and me-
4 chanics pursuant to an enforceable commitment
5 to carry out a financially responsible plan or
6 program which was communicated in writing to
7 the laborers and mechanics affected,

8 for medical or hospital care, pensions on retirement
9 or death, compensation for injuries or illness result-
10 ing from occupational activity, or insurance to pro-
11 vide any of the foregoing, for unemployment bene-
12 fits, life insurance, disability and sickness insurance,
13 or accidental insurance, for vacation and holiday
14 pay, for defraying costs of apprenticeship, joint
15 labor-management committees or similar programs,
16 or for other bona fide fringe benefits, but only if the
17 contractor or subcontractor is not required by other
18 Federal, State, or local law to provide any of such
19 benefits.

20 “(b) PREVAILING WAGE.—

21 “(1) DEFINITION.—For purposes of paragraph
22 (2), the term ‘prevailing wage’ when used to describe
23 the wages required to be paid a laborer or mechanic
24 under a contract subject to section 2(a) means the
25 wages determined by the Secretary to be prevailing

1 for the corresponding classes of laborers and me-
2 chanics employed on projects of a character similar
3 to the contract work in the city, town, or other civil
4 subdivision of the State in which the work is to be
5 performed or in the District of Columbia if the work
6 is to be performed there. In making such a deter-
7 mination for projects of a particular character in an
8 area, the Secretary shall consider the wages paid for
9 all projects regardless of the source of funding of the
10 same character in the area under contracts which
11 have been entered into for amounts not less than the
12 amounts prescribed by clause (i) or (ii) of section
13 2(b)(1)(B).

14 “(2) WAGE DETERMINATIONS.—For purposes
15 of a contract subject to section 2(a), the Secretary
16 shall issue wage determinations based upon the most
17 recent data that is submitted to the Secretary. No
18 wage determination that is based on data that is
19 older than 3 years shall be considered “prevailing”
20 within the meaning of this Act. In the event that the
21 Secretary has no such data, the prevailing wage for
22 purposes of such contract shall be the highest pre-
23 vailing wage determined by the Secretary to be pre-
24 vailing in an area in the State which is comparable
25 to the area in which the contract is to be performed.

1 “(c) WAGE PAYMENTS.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), the obligation of a contractor or sub-
4 contractor to make wage payments in accordance
5 with the prevailing wage determinations of the Sec-
6 retary, insofar as this Act and other Acts incor-
7 porating this Act by reference are concerned, may be
8 discharged by—

9 “(A) the making of payments in cash;

10 “(B) the making of contributions of a type
11 referred to in subsection (a)(2);

12 “(C) the assumption of an enforceable
13 commitment to bear the costs of a plan or pro-
14 gram of a type referred to in subsection (a)(2);
15 or

16 “(D) any combination thereof.

17 “(2) CONTRIBUTIONS AND COSTS.—Unless oth-
18 erwise provided in a bona fide collective bargaining
19 agreement, in discharging the obligation to make
20 wage payments to laborers and mechanics in accord-
21 ance with the prevailing wage determinations of the
22 Secretary, a contractor or subcontractor may only
23 include contributions described in subsection
24 (a)(2)(A) and costs described in subsection (a)(2)(B)
25 which do not exceed the aggregate of contributions

1 and costs determined by the Secretary to be prevail-
2 ing under subsection (b). Credit for contributions
3 made to a fringe benefit plan will be allowed only to
4 the extent that they are based on the effective an-
5 nual rate of contributions for all hours worked dur-
6 ing the calendar year by the laborers and mechanics
7 covered by the plan.

8 “(d) OVERTIME.—In determining the overtime pay to
9 which a laborer or mechanic is entitled under any Federal
10 law, the regular or basic hourly rate of pay (or other alter-
11 native rate upon which premium rate of overtime com-
12 pensation is computed) of the laborer or mechanic shall
13 be deemed to be the basic hourly rate of pay, except that
14 where the amount of payments, contributions, or costs in-
15 curred with respect to the laborer or mechanic exceeds the
16 prevailing wage applicable under subsection (b), the basic
17 hourly rate of pay shall be arrived at by deducting from
18 the amount of payments, contributions, or costs actually
19 incurred with respect to the laborer or mechanic, the
20 amount of contributions or costs of the type described in
21 subsection (a)(2) actually incurred with respect to the la-
22 borer or mechanic or the amount determined under sub-
23 section (a)(2) but not actually paid, whichever amount is
24 the greater.

1 **“SEC. 4. ENFORCEMENT.**

2 “(a) ACTION BY THE SECRETARY.—The Secretary,
3 on the initiative of the Secretary or at the request of a
4 laborer, mechanic, or interested person, shall investigate
5 compliance by a contractor with the requirements of sec-
6 tion 2 and may take such action under section 7(1) to
7 secure compliance with such requirements as may be ap-
8 propriate.

9 “(b) COVERAGE REVIEW.—

10 “(1) PETITION FOR REVIEW OF COVERAGE.—If
11 the Secretary of a department, head of an agency,
12 or contracting authority determines that a contract
13 entered into by the Secretary, agency head, or con-
14 tracting authority which involves construction (in-
15 cluding alteration, repair, renovation, rehabilitation,
16 reconstruction, demolition, painting, or decorating)
17 of a building or works is not subject to section 2(a),
18 any interested person may petition the Adminis-
19 trator to review such determination. The Adminis-
20 trator shall complete the review requested and issue
21 a decision within 60 days of the date the petition is
22 received. Such decision shall be reviewable by the
23 Secretary of Labor who shall make a determination
24 within 90 days. Such determination shall be binding
25 upon the Secretary of a department, agency head or
26 contracting authority.

1 “(2) JUDICIAL REVIEW.—

2 “(A) IN GENERAL.—Any interested person
3 adversely affected or aggrieved by—

4 “(i) the determination by the Sec-
5 retary of Labor made on a petition filed
6 under paragraph (1), or

7 “(ii) failure of the Secretary to take
8 action concerning a petition filed under
9 paragraph (1),

10 may obtain review of such determination in any
11 United States court of appeals for the circuit in
12 which such person is located or in the United
13 States Court of Appeals for the District of Co-
14 lumbia Circuit by filing in such court, within 60
15 days following issuance of such determination, a
16 written petition praying that such determina-
17 tion be modified or set aside. A copy of such pe-
18 tition shall be forthwith transmitted by the
19 clerk of the court in which it is filed to the Sec-
20 retary and to other interested persons.

21 “(B) FILING OF RECORD.—Upon transmit-
22 tal of the petition, the Secretary shall file in the
23 court the record of the proceeding upon which
24 the decision to be reviewed was made and the
25 questions determined in the proceeding as pro-

1 vided in section 2112 of title 28, United States
2 Code. Upon such filing, the court—

3 “(i) shall have exclusive jurisdiction of
4 the proceeding and of the questions deter-
5 mined in the proceeding; and

6 “(ii) shall have the power—

7 “(I) to grant such temporary re-
8 lief or restraining order as it deems
9 just and proper;

10 “(II) to decide all relevant ques-
11 tions of law, interpret constitutional
12 and statutory provisions, and deter-
13 mine the meaning or applicability of
14 the terms of the determination subject
15 to review and in so doing, the court
16 shall apply the standards of review set
17 forth in section 706 of title 5, United
18 States Code;

19 “(III) to make and enter upon
20 the pleadings, testimony, and proceed-
21 ings set forth in the record a decree
22 affirming, modifying, or setting aside,
23 in whole or in part, the determination
24 subject to review; and

1 “(IV) to enforce such determina-
2 tion to the extent that it is affirmed
3 or modified.

4 The decision of the court shall be final except
5 that it shall be subject to review by the Su-
6 preme Court of the United States as provided
7 in section 1254 of title 28, United States Code.

8 “(c) ADMINISTRATIVE COMPLAINT PROCEDURE.—

9 “(1) IN GENERAL.—Any laborer or mechanic
10 under—

11 “(A) a contract with the United States or
12 the District of Columbia, or

13 “(B) any other contract described in sec-
14 tion 2(b)(1),

15 or any interested person may file an administrative
16 complaint with the Administrator to review the wage
17 payments to the laborer or mechanic under such
18 contract to determine if the wage payments have
19 been made in accordance with section 2(a).

20 “(2) ADMINISTRATOR.—

21 “(A) DETERMINATION.—The Adminis-
22 trator shall determine if wage payments have
23 been made in accordance with section 2(a) with-
24 in 120 days of the receipt of the administrative
25 complaint.

1 “(B) HEARING.—Either the complainant
2 or the employer involved in the administrative
3 complaint may, within 15 days of the date of is-
4 suanance of the determination of the Adminis-
5 trator, request a hearing on the determination
6 by an administrative law judge. The determina-
7 tion of the Administrator shall be deemed to be
8 a final agency action if no request for a hearing
9 is made within such 15 days.

10 “(C) REQUEST FOR REFERENCE.—If the
11 Administrator does not make a determination
12 on an administrative complaint within 120 days
13 of its receipt, the complainant may request that
14 the administrative complaint be referred to the
15 Chief Administrative Law Judge of the Depart-
16 ment of Labor for assignment to an Adminis-
17 trative Law Judge of the Department of Labor
18 to make the determination requested by the ad-
19 ministrative complaint.

20 “(3) ADMINISTRATIVE LAW JUDGE.—

21 “(A) IN GENERAL.—The administrative
22 law judge—

23 “(i) to whom a determination of the
24 Administrator has been referred under a

1 request for a hearing under paragraph
2 (2)(B); or

3 “(ii) to whom an administrative com-
4 plaint has been referred under a request
5 for a hearing pursuant to paragraph
6 (2)(C);

7 shall within 90 days of a request conduct a
8 hearing on the record in accordance with sec-
9 tion 554 of title 5, United States Code, with re-
10 spect to such administrative complaint or deter-
11 mination.

12 “(B) HEARINGS.—In any proceeding be-
13 fore an administrative law judge, the employer
14 under the contract reviewed shall have the bur-
15 den of demonstrating that the wage payments
16 under the contract were made in accordance
17 with such section. The administrative law judge
18 shall have the power to issue orders requiring
19 the attendance and testimony of witnesses and
20 the production of evidence under oath. Wit-
21 nesses shall be paid the same fees and mileage
22 that are paid witnesses in the courts of the
23 United States. In the case of contumacy, fail-
24 ure, or refusal of any person to obey such
25 order, any District Court of the United States

1 or of any Territory or possession, within the ju-
2 risdiction of which the inquiry is carried on, or
3 within the jurisdiction of which said person who
4 is guilty of contumacy, failure, or refusal is
5 found, or resides or transacts business, upon
6 the application by the Administrator or the
7 complainant, shall have jurisdiction to issue to
8 such person an order requiring such person to
9 appear before him or representative designated
10 by him, to produce evidence if, as, and when so
11 ordered, and to give testimony relating to the
12 matter under investigation or in question; and
13 any failure to obey such order of the court may
14 be punished by said court as a contempt there-
15 of. The administrative law judge shall issue a
16 decision as to whether wage payments have
17 been made in accordance with section 2(a) with-
18 in 30 days after he receives the transcript of
19 the hearing proceedings.

20 “(C) REVIEW BY SECRETARY.—Within 30
21 days of the date of issuance of the decision by
22 an administrative law judge, the complainant or
23 the employer involved in the petition may re-
24 quest the Secretary to review the decision of the
25 administrative law judge. The decision of the

1 administrative law judge shall be deemed to be
2 a final agency action if no request for review is
3 made within such 30-day period or, within 30
4 days of the date the decision is made, the Sec-
5 retary does not grant a request to review the
6 decision of the administrative law judge.

7 “(D) GRANTING OF REQUEST TO RE-
8 VIEW.—The Secretary may grant a request to
9 review a decision of an administrative law judge
10 only if the Secretary determines that the re-
11 quest presents a substantial question of law or
12 fact. If the Secretary grants a request for a re-
13 view, the Secretary, within 90 days after receiv-
14 ing the request, shall review the record and ei-
15 ther adopt the decision of the administrative
16 law judge or issue exceptions. The decision of
17 the administrative law judge, together with any
18 exceptions, shall be deemed to be a final agency
19 action.

20 “(4) WITHHOLDING OF SUMS.—Upon deter-
21 mination by the Administrator pursuant to para-
22 graph (2), or the administrative law judge pursuant
23 to paragraph (3), based on a finding that petitioner
24 is likely to succeed on the merits of his or her claim,
25 the Secretary of Labor shall direct the Secretary of

1 the department or the head of the agency, or con-
2 tracting authority which entered into the contract
3 subject to the requirements of section 2 to withhold
4 from any moneys payable on account of work per-
5 formed by the contractor or subcontractor under
6 such contract, any other contract described in sec-
7 tion 2(b)(1), or any other federally-funded or as-
8 sisted contract the contractor or subcontractor may
9 have with the same contractor, such sums as may be
10 determined to be necessary to satisfy any liabilities
11 of such contractor or subcontractor for unpaid
12 wages and liquidated damages as provided in para-
13 graph (5)(A).

14 “(5) DECISION.—The decision of the Adminis-
15 trator, an administrative law judge, or the Secretary
16 on a petition under this subsection for the review of
17 the wage payments under a contract may include—

18 “(A) the awarding of damages to the peti-
19 tioner in the amount of twice the amount of
20 wages not paid in accordance with section 2(a)
21 if it is found on review of the petition that the
22 petitioner was willfully not paid wages in ac-
23 cordance with such section; and

1 “(B) in addition to any award to the peti-
2 tioner, a reasonable attorney’s fee to be paid by
3 the employer and the cost of the action.

4 “(6) PAYMENTS.—The Secretary shall pay di-
5 rectly to laborers and mechanics from any accrued
6 payments withheld under the terms of the contract
7 any wages found by the Secretary of Labor under
8 this subsection to be due laborers and mechanics
9 under section 2(a). The Secretary shall distribute a
10 list to all departments of the Federal Government
11 giving the names of the person or corporation, or
12 both, partnership or association the Secretary of
13 Labor has found under this subsection to have dis-
14 regarded their obligations to employees and sub-
15 contractors. No contract shall be awarded to the
16 persons, corporations, or partnerships or associa-
17 tions appearing on this list or to any corporation,
18 partnership, or association in which such persons
19 have an interest until 3 years (or 5 years in the case
20 of a second debarment) have elapsed from the date
21 of publication of the list containing the names of
22 such persons or corporation, partnership, or associa-
23 tions.

24 “(7) RIGHT OF ACTION.—If the accrued pay-
25 ments withheld under the terms of a contract sub-

1 ject to section 2(a) are insufficient to reimburse all
2 the laborers and mechanics with respect to whom
3 there has been a failure to pay the wages required
4 by such section, the Secretary shall bring an action
5 against the contractor and the contractor's sureties
6 for the payment of the wages required by such sec-
7 tion, and in such an action it shall be no defense
8 that such laborers and mechanics accepted or agreed
9 to accept less than the required rate of wages or vol-
10 untarily made refunds.

11 “(8) TIME.—An action seeking judicial review
12 of a final agency action under this subsection shall
13 be brought within 30 days of the date of such ac-
14 tion.

15 “(d) CIVIL ACTIONS.—

16 “(1) IN GENERAL.—Any employer who violates
17 section 2(a) shall be liable to each laborer or me-
18 chanic affected in the amount of the laborer or me-
19 chanic's unpaid wages and, if the violation was will-
20 ful, in an additional equal amount as liquidated
21 damages.

22 “(2) ACTIONS.—An action to recover the liabil-
23 ity prescribed by paragraph (1) may be maintained
24 against any employer in any Federal or State court
25 of competent jurisdiction by any interested party or

1 by any one or more laborers or mechanics for and
2 in behalf of the laborer or mechanic or laborers or
3 mechanics and other laborers or mechanics similarly
4 situated. No laborer or mechanic may be a party
5 plaintiff to any such action unless the laborer or me-
6 chanic gives the laborer or mechanic's consent in
7 writing to become such a party and such consent is
8 filed in the court in which such action is brought.
9 No civil action may be brought or maintained under
10 this paragraph by a laborer or mechanic with respect
11 to the laborer or mechanic's wages if a petition is or
12 has been filed by that laborer or mechanic under
13 subsection (c) with respect to the laborer or
14 mechanic's wages.

15 “(3) ATTORNEY’S FEE.—The court in an action
16 brought under paragraph (2) shall, in addition to
17 any judgment awarded to the plaintiff or plaintiffs,
18 allow a reasonable attorney’s fee to be paid by the
19 defendant and the cost of the action.

20 **“SEC. 5. TERMINATIONS.**

21 “Every contract subject to section 2(a), shall contain
22 a provision that in the event it is found by the contracting
23 officer or the Administrator that any laborer or mechanic
24 covered by the contract has been or is being paid a rate
25 of wages less than the rate of wages required by section

1 2(a) to be paid under the contract or subcontract, the Gov-
2 ernment may, by written notice to the contractor, termi-
3 nate the right of such contractor to proceed with the work
4 or such part of the work as to which there has been a
5 failure to pay the required wages and to prosecute the
6 work to completion by contract or otherwise. The contrac-
7 tor and its sureties shall be liable to the Government for
8 any excess costs incurred by the Government because of
9 the termination of the contract.

10 **“SEC. 6. CONSTRUCTION.**

11 “This Act shall not be construed to supersede or im-
12 pair any authority otherwise granted by Federal law to
13 provide for the establishment of specific wage rates.

14 **“SEC. 7. ADMINISTRATION OF ACT.**

15 “The Secretary of Labor shall—

16 “(1) take such action as may be appropriate to
17 ensure compliance with the requirements of this Act
18 and to enforce its requirements; and

19 “(2) promulgate appropriate standards and pro-
20 cedures to be observed by contracting officers with
21 respect to contracts to which this Act applies.

22 An action by the Secretary under section 4 or this section
23 or by a court under section 4 to enforce the requirements
24 of this Act with respect to a contract shall require the

1 application of this Act to the contract from the date of
2 the contract or the beginning of the work.

3 **“SEC. 8. DEFINITIONS.**

4 “As used in this Act:

5 “(1) ADMINISTRATOR.—The term ‘Adminis-
6 trator’ means the Administrator of the Wage and
7 Hour Division of the Department of Labor.

8 “(2) CONSTRUCTION, ETC.—The terms ‘con-
9 struction’, ‘prosecution’, ‘completion’, ‘repair’, ‘alter-
10 ation’, ‘renovation’, ‘demolition’ and ‘reconstruction’
11 mean all types of work performed by laborers and
12 mechanics which relates to a particular building or
13 work financed in whole or in part by loans, grants,
14 revolving funds or loan guarantees from the United
15 States, or located on land owned by the United
16 States unless exempted or otherwise limited by Fed-
17 eral law, including without limitation, altering, re-
18 modeling, painting and decorating, the transporting
19 of materials and supplies to or from the building or
20 work by the employees of the construction contractor
21 or its subcontractors, including independent hauling
22 contractors, and the manufacturing or furnishing of
23 materials, articles, supplies or equipment for the
24 project from facilities dedicated exclusively, or nearly
25 so, to the prosecution of the building or work fi-

1 nanced in whole or in part by loans, grants, revolving
2 ing funds or loan guarantees from the United
3 States, or located on land owned by the United
4 States unless exempted or otherwise limited by
5 Federal law.

6 “(3) INTERESTED PERSON.—The term ‘inter-
7 ested person’ means any contractor likely to seek or
8 to work under a contract to which section 2(a) ap-
9 plies, any association representing such a contractor,
10 any laborer or mechanic likely to be employed or to
11 seek employment under such a contract, or any labor
12 organization which represents such a laborer or
13 mechanic.

14 “(4) PROJECT.—The term ‘project’ means all
15 construction necessary to complete a new facility,
16 building or work, or to complete an alteration, re-
17 pair, renovation, rehabilitation, demolition or recon-
18 struction (including painting and decorating) of a fa-
19 cility, building or work, regardless of the number of
20 contracts involved so long as all contracts are related
21 in purpose and time.

22 “(5) SECRETARY.—The term ‘Secretary’ means
23 the Secretary of Labor.”.

1 **SEC. 2. PAYROLL INFORMATION.**

2 (a) AMENDMENTS TO COPELAND ACT.—Section 2 of
3 the Act of June 13, 1934 (40 U.S.C. 276c) is amended—

4 (1) in the first sentence, by striking out every-
5 thing after “shall” the second time it appears and
6 inserting in lieu thereof the following: “maintain
7 payroll and other basic records relating to the pay-
8 roll for the work on such buildings or public works,
9 preserve such records for a period of 3 years after
10 the completion of such work, and furnish with re-
11 spect to employees employed in such work and not
12 later than the 10th day of each month a statement
13 which sets forth the following information for each
14 employee for each payroll period ending during the
15 preceding calendar month: The name, address, social
16 security number, employment classification, number
17 of hours worked daily and during the payroll period,
18 hourly rates of wages paid (including rates of con-
19 tributions or costs anticipated for bona fide fringe
20 benefits), all deductions made, and actual wages
21 paid.”; and

22 (2) by adding after the first sentence the follow-
23 ing: “If a contractor or subcontractor fails timely to
24 submit the certified payroll reports as required here-
25 in, the Secretary of the department or the head of
26 the agency which entered into or authorized the

1 funding of the contract subject to the requirements
2 of this section shall suspend all payments to the con-
3 tractor or subcontractor. Any interested person may
4 obtain a copy of any statement provided under this
5 section from any department, agency or contracting
6 authority which is required by law, regulation, or the
7 terms of a contract or grant, to maintain a record
8 of such statement notwithstanding section 552(b) of
9 title 5, United States Code.”.

10 (b) ELECTRONIC REPORTING.—The Secretary of
11 Labor shall undertake a study to determine the feasibility
12 of employers using electronic methods to comply with the
13 reporting requirements under section 2 of the Act of June
14 13, 1934. The Secretary shall report to the Congress not
15 later than one year after the date of the enactment of this
16 Act on actions taken by the Secretary and employers to
17 facilitate electronic reporting of payroll information.

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